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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,413	02/05/2004	Brian K. Bolstad	BOL-0204	6618

7590 01/31/2005

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EXAMINER

HARTMANN, GARY S

ART UNIT PAPER NUMBER

3671

DATE MAILED: 01/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/773,413

**Applicant(s)**

BOLSTAD, BRIAN K.

**Examiner**

Gary Hartmann

**Art Unit**

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 06 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/27/4</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

Claim 13 is objected to because there is no function associated with the means recited in line 1. Additionally, there should be an --a-- between "wherein" and "horizontally." Appropriate correction is required.

Claim 20 is objected to because there should be an --a-- between "wherein" and "horizontal." Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 and 9-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilson et al. (U.S. Patent 3,148,833).

Wilson et al. discloses a stripe layout assembly (right side, Figure 2, for example) for attachment to a paint striping machine (100) including means to attach (Figure 1, for example), an elongated arm member (102) and marking means (104) connected to the arm member for marking a stripe on a surface parallel to a stripe painted by the paint striping machine (Figure 2, for example).

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There is a pivotable structure (Figure 10, for example). This pivotable structure permits the rotation of the arm member with respect to the paint striping machine and includes a hinge member which permits the arm member to pivot in a vertical direction.

There are a plurality of telescoping arm members.

There is a wheel mounted at the distal end of the elongated arm member (Figure 1).

There is an extension bracket and marking element (Figure 1, for example).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 8 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson et al., as applied above.

It is well known to use a lever/cable arrangement in order to obtain an inexpensive, easily actuated device. For this purpose, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used a lever/cable arrangement with Wilson et al.

Claims 6 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson et al. as applied above, and further in view of Duncan (U.S. Patent 6,698,774).

Wilson et al. teaches the right side stripe to be applied to a berm, but does not teach chalk. Sharp et al. teaches applying a chalk as an alternative to paint. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used chalk

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as the term marking of Wilson et al. in order to obtain a non-permanent marking suitable for a particular application.

Regarding claims 18-20, given the use of chalk, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have positioned the marking means on the surface in order to properly dispense the chalk.

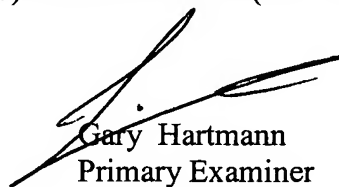
### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Hartmann whose telephone number is 703-305-4549. The examiner can normally be reached on Monday through Thursday, 9am-7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached on 703-308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

gh

  
Gary Hartmann  
Primary Examiner  
Art Unit 3671